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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/023,235

12/17/2001

Kerry Bernstein

BUR9-2001-0178-US1

3714

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01/26/2009

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SUITE 304

ANNAPOLIS, MD 21401

EXAMINER

SAXENA, AKASH

ART UNIT

PAPER NUMBER

2128

MAIL DATE

DELIVERY MODE

01/26/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* KERRY BERNSTEIN, JOSEF S. WATTS,  
and RICHARD Q. WILLIAMS

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Application No. 10/023,235  
Technology Center 2100

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Mailed: 26 January 2009

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Before LAWRENCE J. BANKS *Paralegal Specialist*  
BANKS, *Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on 12 December 2008. A review of the application revealed that it is not ready for docketing as an appeal.

Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

AMENDMENT AFTER FINAL

A review of the file indicates that on 3 January 2008 Appellant filed an Amendment After Final in response to the Final Rejection mailed 28 June 2007. It is not clear whether this Amendment has been considered because an Advisory Action has not been mailed or because box 7 of an Advisory Action fails to indicate whether or not the proposed amendment will or will not be entered for purposes of appeal. Specifically, the Appellant cancelled claim 39. Clarification from the Examiner is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) appropriately respond to the Amendment After Final;
  - 2) vacate the Examiner's Answer mailed 11 June 2008;
  - 3) provide a new Examiner's Answer including a correct "Status of Amendment" section in addition to correction to other sections as required;
- and

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4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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